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09/535,889	03/27/2000	Pankaj K. Jha	0325.00345	3979

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EXAMINER

KWOH, JASPER C

ART UNIT

PAPER NUMBER

2663

DATE MAILED: 07/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/535,889

Applicant(s)

JHA, PANKAJ K.

Examiner

Jasper Kwoh

Art Unit

2663



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 March 2000 and 30 October 2000.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 March 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                      | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                             | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2,4,5</u> . | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Drawings***

1. Figures 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because it contains legal phraseology such as 'comprising'. Correction is required. See MPEP § 608.01(b).

4. The disclosure is objected to because of the following informalities:

- a. attorney docket numbers on page 1 should be deleted; and
- b. on page 8, line 1, FIG. 8 cannot be a detailed block of packet of FIG. 8.

Appropriate correction is required.

5. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-15 and 19-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A packet is a data format. It is not a process, machine, manufacture, or composition of matter or improvement thereof.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. Claim 20 recites the limitation "comprising a plurality of packets" in line 2. It is unclear how a packet comprises a plurality of itself.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 1-4, 11 and 13-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Heuer (US006236660B1).

Regarding claim 1, Heuer discloses a packet (i.e. fig. 10, DAT, IP-packet) comprising a payload configured to transmit information via a network (i.e. fig. 10, IP payload), the packet comprising one or more labels (i.e. fig. 10, IP overhead) configured to control routing of the packet and the payload (i.e. figs. 6, col. 5, ll. 60-63, IP overhead of fig. 10 is used to group and route the IP packets).

Regarding claims 2-3, Heuer discloses SDH fiber optic network (i.e. fig. 7, SDH).

Regarding claim 4, Heuer discloses the payload comprises protocol independent data (i.e. Fig. 10, DAT, payload is IP which is independent from the SDH frame).

Regarding claim 11, Heuer et al. discloses payload is configured to store data (i.e. Fig. 10, IP Payload DAT, data placed in the payload).

Regarding claim 13, Heuer discloses network comprises nodes to address labels (i.e. fig. 6, NAD of the IP overhead is used for the Routing Table to direct the packet).

Regarding claim 14, Heuer discloses de-framing hardware for labels (i.e. col. 5, ll. 60-63, unpacking is equivalent to de-framing).

Regarding claim 15, Heuer discloses transport the frames in response to the labels (i.e. fig. 6, col. 5, ll. 60-63, the address is evaluated and packets are routed to the appropriate VT).

Regarding claim 16, Heuer discloses an apparatus comprising nodes to transfer packets (i.e. fig. 6, CC, col. 5, ll. 60-63, the address is evaluated and packets are routed to the appropriate VT at the cross connect), packet comprising a payload (i.e. fig. 6, DAT) and one or more labels configured to switching (i.e. fig. 6, NAD), wherein each node transmit and/or receive packets in response to the one or more labels (i.e. col. 5, ll. 60-63, the address is evaluated and packets are routed to the appropriate VT).

Regarding claim 17, Heuer discloses a method comprising transmit and/or receive a frame comprising one or more packets (i.e. fig. 6, CC, col. 5, ll. 60-63, the address is evaluated and packets are routed to the appropriate VT at the cross connect), each comprise one or more labels and a payload (i.e. fig. 6, NAD, DAT respectively); and controlling switching in response to one or more labels (i.e. col. 5, ll. 60-63, the address is evaluated and routed to the appropriate VT).

Regarding claim 18. Heuer discloses transmitting and/or receiving payload in response to one or more labels (i.e. fig. 6, col. 5, ll. 20-22 i.e. col. 5, ll. 60-63, the address is evaluated and payload is routed to the appropriate VT).

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 5-10, 12 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heuer in view of Applicant Admitted Prior Art (AAPA).

Regarding claims 5-6, Heuer teaches that the data packets could be packed into a frame structure of another protocol, but does not specifically disclose using Ethernet with MPLS labels being 32 bit words. However, AAPA shows that in Ethernet can be used with MPLS labels have 32 bit words (page 9, table 1). Therefore, it would have been obvious to an ordinary person skilled in the art at the time of the invention to include Ethernet frames including the 32 bit word MPLS as taught by AAPA with the packets of Heuer in order to increase the speed of decision making on how to route the packets.

Regarding claims 7 and 10, Heuer teaches that the data packets could be packed into a frame structure of another protocol, but does not specifically disclose using Ethernet with packet identifier to identify data type. However, AAPA teaches Ethernet packet identifier to identify data type (Page 9, table 1, Data Identifier). Therefore, it would have been obvious to an ordinary person skilled in the art at the time of the invention to include Ethernet frames including packet identifier as taught by AAPA with the packets of Heuer in order to determine which protocol to use when decoding the information being transported.

Regarding claims 8-9, Heuer teaches that the data packets could be packed into a frame structure of another protocol, but does not specifically disclose using Ethernet with link layer address comprising a destination and source addresses. However,

AAPA teaches Ethernet link layer destination and source addresses (Page 9, table 1, Layer 2 addresses). Therefore, it would have been obvious to an ordinary person skilled in the art at the time of the invention to include Ethernet frames including layer 2 addresses as taught by AAPA with the packets of Heuer in order to determine how to route the packet between gateways.

Regarding claim 12, Heuer teaches that the data packets could be packed into a frame structure of another protocol, but does not specifically disclose using Ethernet with portion to detect error. However, AAPA teaches Ethernet portion to detect error (Page 9, table 1, CRC). Therefore, it would have been obvious to an ordinary person skilled in the art at the time of the invention to include Ethernet frames including identifying error as taught by AAPA with the packets of Heuer in order to make sure that the information transmitted is correct.

Regarding claims 19-20, Heuer discloses that the frame contains a plurality of packets (i.e. fig. 10, IP packets are located within the SDH), but does not specifically that the frame is SONET. However, AAPA teaches that SDH and SONET are functionally equivalent (i.e. page 2, ll. 7-10, same framing, size envelopes, etc.) Therefore, it would have been obvious to an ordinary person skilled in the art at the time of the invention to include SONET as taught by AAPA with the packet of Heuer in order to transmit in networks that uses SONET protocol.



**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jasper Kwoh whose telephone number is (703) 305-0101. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (703)308-5340. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.



JK  
July 7, 2003

Jasper Kwoh  
Examiner  
Art Unit 2663



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